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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

I.T.R. No.112 of 1997
Date of decision:

Commissioner of Income Tax, Haryana, Rohtak

Appellant.

Vs.

Haryana Land Reclamation Development Corporation Ltd. Chandigarh

Respondent.

CORAM:- Hon'ble Mr. Justice M.M.Kumar
Hon'ble Mr. Justice Rajesh Bindal

Present:- Mr. Yogesh Putney, Advocate, for the revenue.
Mr. Pankaj Jain, Advocate, for the assessee.

Rajesh Bindal,J.

Following questions of law have been referred for opinion of this Court by the Income Tax Appellate Tribunal, Delhi Bench 'B', New Delhi (for short 'the Tribunal'), arising out of its order dated 11.2.1997 in I.T.A.No. 8869/Del/91, in respect of the assessment year 1988-89:-

> "Whether, on the facts and in the circumstances of the case, the ITAT was right in law in holding that the income derived from sale of old material, interest and rental charges received from employees credited to non-agricultural income portion in P&L account was agricultural income within the meaning of Section 1-A of Section 2 of the Act when immediate and effective sources of such income was not land?"

A perusal of the order passed by the Tribunal shows that it followed its earlier order passed for the assessment year 1987-88 to determine the issue against the revenue.

We have perused the order passed by the Tribunal for the assessment year 1987-88, which was under consideration before us in ITR No.152 of 1996 (**Commissioner of Income Tax, Haryana, Rohtak Vs. Haryana Land Reclamation Development Corporation Ltd.**

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Chandigarh.), decided by a separate order passed today. The issues involved in the assessment year 1987-88 were altogether different as compared to the issue involved for the assessment year in question. As the real issue has not been dealt with by the Tribunal, we deem it appropriate to refer the matter back to the Tribunal to deal with the issue and take a final decision thereon.

Accordingly, while disposing of the present reference, we remand the matter back to the Tribunal for taking a decision on merits.

(Rajesh Bindal)
Judge

March 26 ,2007 **(M.M.Kumar)**
Pka **Judge**